

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL P. ANSELMO,

Plaintiff,

vs.

DON HELLING, *et al.*,

Defendants.

3:07-cv-0204-JCM-RAM

ORDER

Presently before the court is defendants' motion to dismiss (doc. #19).

Plaintiff is a pro se inmate litigant who, according to his amended complaint (Doc. #17), suffers from significant medical ailments, including a seizure disorder. Plaintiff alleges that, in March 2007, he was wrongfully transferred from Northern Nevada Correctional Center to Lovelock Correctional Center ("LCC") where his medical conditions went untreated.

Defendant Robert LeGrand, Assistant Warden of Programs at the LCC, filed a declaration stating that plaintiff filed five separate grievances at the LCC, which were all denied at the informal level. (Doc. # 19, Exhibit B, pg. 1). Plaintiff filed a first level appeal from the denial of one grievance but did not file a second level grievance pursuant to the Nevada Department of Corrections ("NDOC") administrative regulations. (Doc. #25, Exhibit E).


Administrative exhaustion is required for all prison conditions claims filed under 42 U.S.C. § 1983 or any other federal law. *Porter v. Nussle*, 534 U.S. 516, 524 (2002). 42 U.S.C. § 1997e provides that "[n]o action shall be brought with respect to prison conditions under [42 U.S.C. §

1 1983] or any other Federal law, by a prisoner confined in any jail, prison, or other correctional
2 facility until such administrative remedies as are available are exhausted.” *Id.* at (a). According to
3 the NDOC inmate grievance procedure, inmates are required to file an informal grievance and may
4 then appeal an adverse decision in a first and second level grievance proceeding. *See* AR 740.02.
5 Since the plaintiff failed to appeal the denials of his informal grievances or first level grievance,
6 plaintiff has not exhausted his administrative remedies and this action must be dismissed pursuant to
7 42 U.S.C. §1997e(c)(1).

8 Having reviewed all relevant documents in this matter,

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that defendants’ motion to
10 dismiss (doc. # 19), be and the same hereby is, GRANTED. Plaintiff’s claims are, therefore,
11 dismissed without prejudice.

12 DATED this 20th day of November, 2008.

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16 UNITED STATES DISTRICT JUDGE
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